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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,458	05/23/2005	Etsunori Fujita	9035.1028	2786
21831 7590 02/08/2007 WOLF BLOCK SCHORR AND SOLIS-COHEN LLP 250 PARK AVENUE NEW YORK, NY 10177			EXAMINER GARRETT, ERIKA P	
			ART UNIT	PAPER NUMBER
			3636	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/08/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<p style="text-align: center;"><b>Office Action Summary</b></p>	<p><b>Application No.</b></p> <p>10/520,458</p>	<p><b>Applicant(s)</b></p> <p>FUJITA ET AL.</p>	
	<p><b>Examiner</b></p> <p>Erika Garrett</p>	<p><b>Art Unit</b></p> <p>3636</p>	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 November 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/29/05</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "105" has been used to designate both "bracket and torsion bar". See page 8 of the specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The disclosure is objected to because of the following informalities: The applicant is relying on claims in the disclosure, which is not proper. The disclosure should be clearly presented without relying on claims.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1 and 4-10 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In claim 1, it is unclear how the spring deforms the seatback. On page 9, lines 12-26 of the specification states that the torsion bar deforms the seat back not the spring itself.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "arbitrary frame member" is unclear and indefinite. It is not clear what is meant by "arbitrary" and what make the frame member arbitrary". The specification does not describe what "arbitrary frame member" means.

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In regards to the phrase "frame member", is unclear if the frame member is part of the vehicle seat or part of the vehicle. It is not clear from the claims or the specification, where it's located or is it part of the invention.

7. Claims 4-5 and 12-13 recites the limitation "from the haunches to the waist" in lines 4-5. There is insufficient antecedent basis for this limitation in the claim.

8. Claims 5 and 13 recites the limitation "arbitrary frame" in line 1. There is insufficient antecedent basis for this limitation in the claim.

9. With respect to claims 1-5,8, 11-13 and 16 recites more than one frame member. It is suggested that the applicant recite a first and second frame member to avoid any ambiguity.

10. The phrase "stronger than that prescribed" is unclear and confusing. What was prescribed in the first place?

### ***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1-3, 6,11 and 14 so far as understood are rejected under 35 U.S.C. 102(b) as being anticipated by Viano (5,295,729). Viano discloses the use of a seat structure (A) comprising a flat spring member (20) disposed in such a manner that one end is in engagement with an arbitrary frame member (15) to be displaced

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backward by backward moment, which deforms a seat back under an impact force from front or back equal to or stronger than that prescribed, and the other end is in engagement with a frame member disposed in the vicinity of the front edge of a cushion frame, wherein the flat spring member increases in tension as said seat back is deformed. In regards to claim 2, A seat structure, comprising a cushion frame (10) provided with a frame member deforming under an impact force from front or back equal to or stronger than that prescribed; and a flat spring member (20) disposed in such a manner that one end thereof is in engagement with an arbitrary frame member to be displaced backward along with deformation of a seat back by backward moment applied to said seat back, and the other end is in engagement with the frame member disposed in the vicinity of the front edge of the cushion frame, wherein the flat spring member increases in tension accompanied by deformation of said seat back to perform a function to increase the intensity of the backward moment of the seat back, see abstract. In regards to claims 3 and 11, the arbitrary frame member engaged with one end of said flat spring member and displacing backward (rearward) by the backward moment toward said seat back includes a frame member (40) composing a back frame. In regards to claim 6, further comprising a stopper (140) to control deformation of the cushion frame and the back frame under an impact force from front or back equal to or stronger than that prescribed, see columns 7-8.

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 7-10 and 15-18 so far as understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Viano as applied to claims 1-3,6, 11 and 14 above, and further in view of Takata (6,860,561). Viano fails to show the use of a two-dimensional net member and a three-dimensional net member or a combination of two or more, and a three-dimensional net member formed by connecting two layers of front and back of ground knitted fabrics with connecting yarn. Takata teaches the use of a two-dimensional net member and a three-dimensional net member (90) or a combination of two or more, and a three-dimensional net member formed by connecting two layers of front (91) and back (92) of ground knitted fabrics with connecting yarn, see column 8. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the spring and cushion member of Viano with a two and three-dimensional member as taught by Takata, in order to absorb the impact of the seat.

***Allowable Subject Matter***

15. Claims 4-5 and 12-13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 1<sup>st</sup> and 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to a seat: U.S Pat. No. US005746467A, US006485098B1, US005829827A US006378939B1.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erika Garrett whose telephone number is 571-272-6859. The examiner can normally be reached on Monday-Thursday 9:00 a.m.-5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.




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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EG 

February 1, 2007

  
**DAVID R. DUNN**  
**PRIMARY EXAMINER**